REMARKS

Notwithstanding the foregoing required elections, Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement and examine all currently pending claims in the current application. If the Examiner is inclined to refuse this request, Applicants request that the Examiner at least rejoin the claims of claim groups II, III, IV, and VI, along with claims 54-58 of Group V for examination. In the further event that the Examiner is minded to further refuse this request, Applicants request that the Examiner rejoin claims 54-58 and the claims of claim Group VI with the claims elected above.

As set forth in MPEP § 803, a restriction requirement is proper if (1) two or more independent and distinct inventions are claimed in one application (35 U.S.C. §121), **and** (2) there would be a serious burden on the examiner if restriction is not required. (Emphasis added.)

In the instant case, all of claim Groups I-IV involve determination of protein binding (see, e.g., p.12, lines 32-37). Thus, search and consideration of claims directed to protein binding (i.e., Group I) will necessarily include the additional claim groups II, III, and IV. Therefore, no additional burden would be imposed.

In addition, claims 54-58, placed by the Examiner in Group V, should properly be considered as generic to all claim groups, as they address the target source, rather than the identification technique.

Likewise, the claims of Group VI (claims 48-52, 74-91), which specify identification of an inhibitory bacteriophage ORF, should also be included. As was described throughout the present specification, an inhibtory phage ORF is identified to provide the encoded inhibitory ORF product, that is used for identifying the bacterial targets. Thus, as described, typically the phage ORF is identified before the bacterial target, and the ORF product is used in identification of the target. Thus, the ORF identification specified in the claims of claim Group VI are applicable, and typically precedent, to the techniques for identifying phage ORF

product/bacterial target interaction. Thus, specification of the inhibitory phage ORF identification component does not establish an different bacterial target identification technique, but rather a determination that a person would typically carry out before the inhibitor/target interaction determination, but that also could be carried out by others separately with only the ORF identification then being used in the bacterial target identification.

Additionally, at least claims 43-44 and 92 of Claim Group V should also appropriately be included for examination. Claims 43-44 and 92 specify that the ORF encoding the identified bacterial target is identified and/or sequenced. Thus, these claims are directed to an additional step or component in the target identification method, and are applicable to all of the target identification techniques mentioned. Thus, rejoinder of these claims is also proper.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request that the Examiner reconsider the current restriction requirement and rejoin the claims as indicated above. Should a telephonic discussion appear helpful in furthering prosecution of the present application, the Examiner is encouraged to contact the undersigned at the telephone number listed below.

Applicant hereby requests a one-month extension of time to allow timely response up to and including May 14, 2001, as May 12, 2001 fell on a Saturday. A check for the fee for that extension accompanies this response. If that amount is incorrect or if any additional fee is due, kindly charge the appropriate amount to Deposit Account 50-0872.

Respectfully submitted,

Date 14 May 2001

By _____

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